

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

TOMMY LEE CROW JR.,

Petitioner,

V.

RON HAYES,

## Respondent.

CASE NO. C16-5277 RJB-JRC

**ORDER DENYING PETITIONER'S  
MOTION FOR COUNSEL**

The District Court has referred this petition for a writ of habeas corpus to United States

Magistrate Judge, J. Richard Creatura. The authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4. Petitioner seeks relief from a state conviction, thus, the petition is filed pursuant to 28 U.S.C. § 2254.

Before the Court is petitioner's motion for the appointment of counsel. Dkt. 14. Under separate order, the Court ordered petitioner to show cause why the petition should not be dismissed to allow him to pursue state court remedies. Dkt. 16.

There is no right to have counsel appointed in cases brought under 28 U.S.C. §2254, unless an evidentiary hearing is required or such appointment is “necessary for the effective

1 utilization of discovery procedures.” *See McCleskey v. Zant*, 499 U.S. 467, 495 (1991); *United*  
2 *States v. Duarte-Higareda*, 68 F.3d 369, 370 (9th Cir. 1995); *United States v. Angelone*, 894  
3 F.2d 1129, 1130 (9th Cir. 1990); *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983); Rules  
4 Governing Section 2254 Cases in the United States District Courts 6(a) and 8(c). The Court also  
5 may appoint counsel “at any stage of the case if the interest of justice so require.” *Weygandt*,  
6 718 F.2d at 754. In deciding whether to appoint counsel, however, the Court “must evaluate the  
7 likelihood of success on the merits as well as the ability of the petitioner to articulate his claims  
8 pro se in light of the complexity of the legal issues involved.” *Id.*

9 Petitioner has not requested that he be allowed to conduct discovery in this matter nor  
10 does the Court find good cause for granting him leave to do so at this stage of the proceedings.  
11 See Rule Governing Section 2254 Cases in the United States District Courts 6(a). In addition,  
12 the Court has not determined that an evidentiary hearing will be required, nor does it appear that  
13 one is needed at this time. See Rule Governing Section 2254 Cases in the United States District  
14 Courts 8(c). Petitioner has not shown that he has exhausted his state court remedies at this time.

15 Accordingly, petitioner’s motion for the appointment of counsel (Dkt. 14) is denied.

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17 Dated this 8th day of August, 2016.



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19 J. Richard Creatura  
20 United States Magistrate Judge  
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